

AG Opinion Number 97-001

Ferris E. Groll
Deputy Commissioner
Department of Public Safety
4501 South 2700 West
Salt Lake City, Utah 84119

Re: Juvenile Drivers License Suspension Provisions
Attorney General Opinion No. 97-1

Dear Deputy Commissioner Groll:

Your recent request for an opinion has been referred to me for a response. Your question is whether the Drivers License Division (Division) must take administrative action against a juvenile's driving privileges when it receives a juvenile court order directing the Division to suspend the juvenile's driving privileges and again when it receives a juvenile court record showing a "conviction" involving controlled substances. It is my conclusion that the juvenile court adjudication does not constitute a "conviction" and therefore the Division should only take action based on the order.

The issue arises in juvenile court proceedings involving controlled substances. If the court finds that a juvenile committed acts which would be a violation of the controlled substances laws if committed by an adult, the court must send an order to the Division directing the Division to suspend the juvenile's driving privileges. See Utah Code Ann. § 78-3a-517.

Upon receipt of that order from the juvenile court the Division is required to suspend the juvenile's driving privileges for ninety (90) days on a first such order, six months on a second order, and one year on subsequent orders. See Utah Code Ann. § 53-3-219.

Frequently the juvenile court, in conjunction with that order, forwards an "abstract of court record" to the Division, an example of which is attached. That abstract purports to show a "conviction" for a violation of a controlled substance statute. The drivers license statutes require the Division, upon receipt of a "record of a conviction" for a controlled substance offense, to immediately suspend the driving privileges of the person for six months. See Utah Code Ann. § 53-3-220(1)(c). The question is whether the Division should take action against a juvenile's driving privileges based upon its receipt of this court record in addition to the suspension based on the order.

Actions and proceedings involving juveniles are different than proceedings against adults and are governed by the Juvenile Court Act of 1996, Utah Code Ann. § 78-3a-101 et seq. With regard to the question here, that Act provides, in § 78-3a-515:

- (1) Except as provided in section 78-3a-602 and 78-3a-603 [involving serious youth offenders certified and tried as adults], proceedings in minor's cases shall be regarded as civil proceedings with the court exercising equitable powers.
- (2) An adjudication by a juvenile court that a minor is within its jurisdiction under section 78-3a-104 is not considered a conviction of a crime, except in cases involving traffic violations. An adjudication may not operate to impose any civil disabilities upon the minor nor to disqualify the minor from any civil service or military service or appointment.
- (3) A minor may not be charged with a crime or convicted in any court except as provided in sections 78-3a-602 and 78-3a-603, and in cases involving traffic violations (emphasis added).

Based on these Juvenile Court Act provisions, the abstract of record from the juvenile court, reflecting what transpired at the juvenile court, does not constitute a "conviction" nor should it result in a separate imposition of a civil disability, such as the loss of a driving privilege. Thus, that abstract should not act as a triggering event under section 53-3-220(1)(c) requiring a mandatory suspension.

Had the legislature intended the juvenile court adjudication to be a triggering event under that section 53-3-220(1)(c), they could have so provided rather than referring to a "conviction". In section 53-3-220(1)(b) the Division is required to suspend a juvenile's driving privileges when it receives a "record of an adjudication" from a juvenile court of certain listed offenses, but not including controlled substance offenses. This further indicates that the § 53-3-220(1)(c) suspension for a conviction does not apply to juvenile court adjudications.

A concern has been raised that the term "conviction," as defined in the driver license laws, Utah Code Ann. § 53-3-102(6), includes a juvenile court adjudication. That section defines conviction, as relevant here, as:

- (A) An unvacated adjudication of guilt or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or an administrative proceeding.

This section should not be interpreted to include juvenile court adjudications. The juvenile court's determination is that the minor is within the jurisdiction of the court, not that the juvenile was "guilty" of an offense. The juvenile court

provisions are more specific with regard to actions involving juveniles and they explicitly provide that the adjudication is not a conviction nor may the adjudication "operate to impose a civil disability upon the minor." Further, the Legislature has given special authority to the juvenile court to order suspension of juvenile driving privileges for a limited time which, if the court's actions constitute a conviction, are rendered meaningless and useless. See sections 78-3a-517 and 53-3-219.

The Utah Supreme Court has stated, with regard to interpreting statutory provisions:

[I]t is appropriate to analyze the act in its entirety, in light of its objective, and to harmonize its provisions in accordance with legislative intent and purpose. A further basic rule to be applied in connection therewith is that specific provisions prevail over more general expressions.

Osuala v. Aetna Life and Casualty, 608 P.2d 242 (Utah 1980). Based upon the specific provisions in the Juvenile Court Act involving the nature of juvenile proceedings and their potential effects, the provisions regarding suspension of juvenile drivers licenses by juvenile court order, and the Drivers License Division provisions which distinguish between juvenile court adjudications and convictions, the abstract of record received from the juvenile court is not a "record of conviction" under section 53-3-220(1)(c).

Therefore, the Division should not impose a six month suspension for a conviction pursuant to § 53-3-220(1)(c) based upon the record, but only take action pursuant to the juvenile court order under §§ 53-3-219 and 78-3a-517.

THOM D. ROBERTS
Assistant Attorney General